

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**CITIZENS FOR RESPONSIBILITY  
AND ETHICS IN WASHINGTON,** )  
1400 Eye Street, N.W. )  
Suite 450 )  
Washington, D.C. 20005 )

Plaintiff, )

v. )

Civil Action No.

U.S. DEPARTMENT OF THE )  
TREASURY, )  
1500 Pennsylvania Avenue, N.W. )  
Washington, D.C. 20220 )

Defendant. )

**COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

1. This is an action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, for injunctive, declaratory, and other appropriate relief. Plaintiff Citizens for Responsibility and Ethics in Washington (CREW) seeks the release of records from the Internal Revenue Service (IRS), a component of defendant U.S. Department of the Treasury, of communications and correspondence between the IRS and Congress regarding the regulation of tax-exempt organizations under §§ 501(c)(4), (c)(5), and (c)(6) of the Internal Revenue Code (the Tax Code), 26 U.S.C. §§ 501(c)(4), (5), and (6). CREW also seeks records related to a project the IRS described in its IRS Exempt Organizations 2012 work plan. Plaintiff is statutorily entitled to the disclosure of the records it seeks. Notwithstanding that entitlement, defendant has improperly withheld the requested records.

### **Jurisdiction and Venue**

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. §§ 2201(a) and 2202. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

### **Parties**

3. Plaintiff CREW is a non-profit, non-partisan corporation organized under § 501(c)(3) of the Tax Code. CREW is committed to protecting the right of citizens to be informed about the activities of government officials and agencies, and to ensuring the integrity of government officials and agencies. CREW seeks to empower citizens to have an influential voice in government decisions and the government decision-making process through the dissemination of information about public officials and their actions. To advance its mission, CREW uses a combination of research, litigation, and advocacy. As part of its research, CREW uses government records made available to it under the FOIA.

4. Defendant U.S. Department of the Treasury is an agency within the meaning of 5 U.S.C. § 552(f) and 5 U.S.C. § 702. Its component, the IRS, has possession and control of the requested records and is responsible for fulfilling plaintiff's FOIA request.

### **Plaintiff's FOIA Request**

5. By letter dated November 30, 2012, to the IRS, a component of defendant U.S. Department of the Treasury, plaintiff requested under the FOIA agency records related to the IRS's regulation of section 501(c)(4), (c)(5), and (c)(6) organizations involved in political activity.

6. First, CREW requested all communications and correspondence from January 21, 2010, to the present between the IRS and any member, committee, or employee of Congress regarding regulation of section 501(c)(4), (c)(5), and (c)(6) organizations.

7. Second, CREW requested all records related to two projects described in the IRS Exempt Organizations (EO) 2012 work plan. The first project is titled “501(c)(4), (5) and (6) self-declarers,” and the work plan states EO will review organizations that have self-declared under these exemptions to ensure they have classified themselves correctly and are complying with applicable rules. The second project is titled “Political activity,” and the work plan states EO will focus its examination resources on serious allegations of impermissible political intervention. The project provides further that a committee of career civil servants will focus on identifying the cases to refer for examination.

8. The IRS received plaintiff’s FOIA request described in ¶¶ 5-7 on December 5, 2012.

9. Subsequently, by letter dated December 19, 2012, the IRS indicated it had granted itself the statutorily recognized extension of time to respond from January 4, 2013, to January 18, 2013, based on the claimed need to search for, collect, and review responsive records from other locations. The IRS further indicated it could not meet the January 18, 2013 deadline, and stated it had extended its responsive date to March 29, 2013, by which time it believed it could provide a final response. The IRS cited no authority supporting its decision to extend its response time to March 29, 2013.

10. In a series of communications between April and May 2013, CREW agreed to narrow its request to exclude documents related to the project described in the EO 2012 work plan as pertaining to “501(c)(4), (5), and (6) self-declarers.” CREW also asked the IRS to

provide CREW a time frame for the disclosure of the requested congressional correspondence as well as that portion of CREW's request seeking documents relating to EO's political activity project.

11. In early May 2013, the IRS agreed to make an interim response to CREW. In late May 2013, however, the IRS indicated the promised interim response was undergoing additional levels of review in light of the current IRS scandal regarding its enforcement of § 501(c)(4) of the Tax Code.

12. To date, defendant U.S. Department of the Treasury and its component the IRS have neither produced a single document to CREW in response to its FOIA request of November 30, 2012, nor withheld or otherwise accounted for any responsive documents.

13. Plaintiff has therefore exhausted applicable administrative remedies.

### **CAUSE OF ACTION**

#### **Violation Of The Freedom Of Information Act For Wrongful Withholding Of Agency Records**

14. Plaintiff repeats and re-alleges paragraphs 1-13.

18. Defendant U.S. Department of the Treasury and its component the IRS have wrongfully withheld agency records requested by plaintiff by failing to comply with the statutory time limit for the processing of CREW's FOIA request.

#### **Requested Relief**

WHEREFORE, plaintiff prays that this Court:

A. Order defendant U.S. Department of the Treasury and its component the IRS to complete the processing of plaintiff's November 30, 2011 immediately;

- B. Provide for expeditious proceedings in this action;
- C. Retain jurisdiction of this action to ensure no agency records are wrongfully withheld;
- D. Award plaintiff its costs and reasonable attorneys' fees in this action; and
- E. Grant such other relief as the Court may deem just and proper.

Respectfully submitted,



Anne L. Weismann  
D.C. Bar No. 298190  
Melanie Sloan  
D.C. Bar No. 434584  
Citizens for Responsibility and Ethics  
in Washington  
1400 Eye Street, N.W., Suite 450  
Washington, D.C. 20005  
Telephone: (202) 408-5565  
Fax: (202) 588-5020  
[Aweismann@citizensforethics.org](mailto:Aweismann@citizensforethics.org)

Dated: June 5, 2013